

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

VIOLA BELSER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 2:07cv-01009-MHT
)	
PROGRESSIVE HALCYON)	
INSURANCE COMPANY,)	
)	
Defendant.)	

MOTION TO REMAND

COMES NOW the Plaintiff, Viola Belser, by and through her undersigned counsel, and pursuant to 28 U.S.C.A. §1447(c), respectfully moves the Court to remand this cause to the Circuit Court of Montgomery County, Alabama, and as grounds therefore says as follows:

1. That on November 15, 2007, Defendant caused this action to be removed from the Circuit Court of Montgomery County, Alabama, to this Court, pursuant to 28 U.S.C.A. §1332. (Doc. 1).
2. Because this action was originally filed in state court and removed to federal court by the Defendant, Defendant bears the burden of proving that federal jurisdiction exists. *Williams v. Best Buy Co., Inc.*, 269 F.3d 1316, 1319 (11th Cir. 2001).
3. As a basis for diversity jurisdiction, Defendant asserted in its Notice of Removal that “[t]he matter in dispute exceeds the sum of \$75,000, exclusive of interest and costs, . . .” and references Plaintiff’s Complaint attached to the Notice as Exhibit A in support of this assertion. (see Doc. 1).
4. However, contrary to Defendant’s assertion, the Complaint does not establish that the amount in controversy “exceeds the sum of \$75,000, exclusive of interest and costs,” as mandated by §1332. The Complaint merely indicates that Plaintiff is seeking

“compensatory and punitive damages in excess of the sum of \$50,000; . . .”

5. Because Defendant has failed to establish diversity jurisdiction pursuant to 28 U.S.C.A. §1332, this Court lacks subject matter jurisdiction over this cause.
6. Accordingly, Plaintiff requests that this action be remanded to the Circuit Court of Montgomery County, Alabama, for further proceedings.

WHEREFORE Plaintiff requests that this Court order this cause remanded to the Circuit Court of Montgomery County, Alabama, for further proceedings, for the reasons set forth herein.

/s/ Jerry M. Blevins
JERRY M. BLEVINS (BLE003)
Counsel for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of November, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following parties or counsel:

R. Larry Bradford, Esq.
Bradford & Sears, P.C.
200 Canyon Road, Suite 100
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/s/ Jerry M. Blevins
Jerry M. Blevins